

## REMARKS

This Reply is responsive to the Office Action mailed on August 23, 2004. This Reply is accompanied by a one-month extension of time along with an authorization to charge the statutory fee for the extension.

In this Reply, no claims have been added, amended, nor cancelled. The Title of the Invention has been amended to match the title of the invention indicated in the executed declaration and assignment file earlier in this prosecution. No new matter has been added.

There were seventeen (17) claims pending at the time of the Office Action. All claims were rejected as being obvious under 35 U.S.C. 103(a) based U.S. Patent No. 6,495,108 to Rising (hereafter Rising '108) as a primary reference in combination with U.S. Pat. No. 5,787,823 to Knowles or U.S. Pat. No. 5,569,436 to Lerner. The sole named inventor in Rising '108 is Bruce Rising. Rising '108 was issued on December 17, 2002, which constitutes the date of first public disclosure (publication) of Rising '108.

Although Applicant respectfully disagrees regarding the assertion of obviousness of the claimed invention based Rising '108 in view of either Knowles or Lerner, the issue is moot because as explained below because Rising '108 is not citeable as a prior art reference against the claims in the present application. The present application was filed on December 11, 2003. Like Rising '108, Bruce Rising is the sole named inventor in the present application. The December 11, 2003 filing date is clearly not more than one year after the December 17, 2002 publication date of Rising '108.

Because of identical inventorship between the present application and Rising '108, Rising '108 does not qualify under either 35 U.S. C. 102(a) or 35 U.S. C. 102(e) because of the "by others" (102(a)) and "by another" (102(e)) language prevents an applicant's own work from

being a reference under 102(a) nor 102(e), respectively, against him or her. Although 35 U.S.C. 102(b), unlike 35 U.S.C. 102(a) and 35 U.S.C. 102(e), can be based on an applicant's own work, as noted above, the present application was filed not "more than one year" after December 17, 2002 (the date of first public disclosure of Rising '108). Since Rising '108 does not qualify under any other 102 provision, Rising '108 is not a citeable as a prior art reference against the claims in the present application. Accordingly, Applicant submits that all claims are patentable claims.

Applicant has made every effort to present claims which distinguish over the cited art. Accordingly, it is believed that all claims are now in condition for allowance. However, Applicant invites the Examiner to call the undersigned if it is believed that a telephonic interview (direct line (561) 671-3662) would expedite the prosecution of the application to an allowance. The Commissioner for Patents is hereby authorized to charge any deficiency in fees due with the filing of this document and during prosecution of this application to Deposit Account No. 50-0951.

Respectfully submitted,

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